IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4038 OF 2005
IN
CRIMINAL APPEAL NO. 602 OF 2005

Shri Somnath Kaluram Kanchan .. Applicant

Vs.

The State of Maharashtra
(Through Prakash alias
Appa Haribhau Londhe) .. Respondent

Mr. A.V. Anturkar with Mrs. Vinita V. Shetty for applicant.
Mr. A.M. Shringarpure, APP for Respondent-State.
Mr. M.S. Mohite for Original Complainant.

CORAM: S.S. PARKAR & ANOOP V. MOHTA,JJ.

Date : August 17, 2005.

P.C.:

1. This is an application for bail filed on behalf of the original accused no.9 who, along with five others, was convicted for offences under Sections 143, 147, 148 and 302 read with Section 149 of IPC.

2. The deceased received multiple injuries about 30 in number which included incised as well as stab wounds. There are five eye witnesses to the incident, all of whom have implicated the applicant for carrying weapon in his hand and assaulting the deceased with

that weapon called "Sattur". The applicant was named in the FIR, which was lodged about two hours after the incident, filed by the brother of the deceased. The complainant side as well as all the accused are from the same village. Out of 9 accused implicated in the case, the trial court has convicted 6 accused persons, including the applicant, who were named in the FIR and attributed assault with weapons like choppers, sickles and sattur. This applicant, though hailing from same village and named in the FIR lodged immediately after the incident, could not be traced for a period of one week.

3. On behalf of the applicant it is argued that there was no recovery of weapon at the instance of this applicant. However, there is clear evidence of five eye witnesses supported by the medical evidence as well as corroborated by the immediate complaint lodged in the case. It is then argued that the applicant is the only earning member in the family. The list of family members of the applicant is given at Annexure "A1" which shows that apart from the applicant who is aged 28 years, his father is aged 50 years and his brother is aged 24 years. The applicant

was not employed any where but he is an agriculturist. It cannot be said that the agricultural operation cannot be performed in the absence of the applicant-accused. Moreover, that cannot be the reason for release of the accused on bail. The applicant was not on bail during trial. No doubt he is in custody from the date of his arrest along with other convicted accused. In that circumstance, it would be desirable to expedite the hearing of the appeal.

4. In the result, this application for bail is rejected. However, the hearing of the appeal is expedited.

(S.S. Parkar,J.)

(Anoop V. Mohta,J.)